

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

ALREE SWEAT,

Petitioner,

vs.

Civ. No. 19-987 JB/GJF

STATE OF NEW MEXICO,

Respondent.

THIS MATTER is before the Court on the *third* Motion for Appointment of Counsel filed by Petitioner Alree Sweat. ECF 27. As the Court did with the first two motions, the Court will deny the instant motion. *See* ECFs 3, 6, 7, 11.

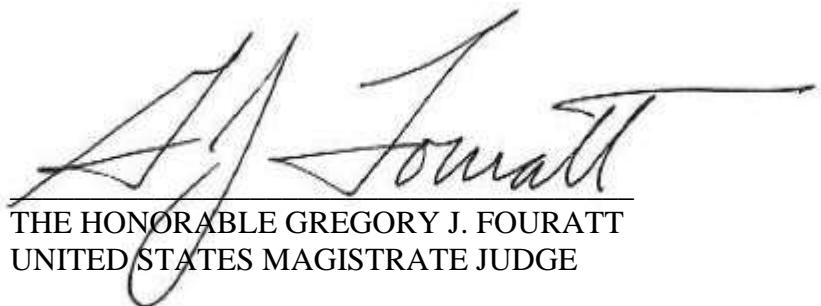
Petitioner is a prisoner in the custody of the State of New Mexico and seeks habeas corpus review of his New Mexico conviction and sentence under 28 U.S.C. § 2254. There is no right to appointment of counsel in a habeas corpus case under 28 U.S.C. § 2254. Instead, the decision whether to request assistance of counsel rests in the sound discretion of the Court. *See, e.g., Coleman v. Thompson*, 501 U.S. 722 (1991); *Swazo v. Wyoming Dep't of Corr. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994). In determining whether to appoint counsel, the district court should consider the merits of the litigant's claims, the nature and complexity of the factual and legal issues, and the litigant's ability to investigate the facts and to present his claims. *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004).

The instant motion came eight days *after* this Court filed its Proposed Findings and Recommended Disposition [ECF 26], in which it recommended that the presiding judge deny Petitioner's Petition for Writ of Habeas Corpus. Petitioner has since filed two sets of objections to the PFRD [ECF 31, 32], both of which are pending decision by the presiding judge. The Court has reviewed Petitioner's objections and finds (as it did twice before) that Petitioner understands

the issues in the case and has represented himself throughout this litigation in a capable manner. *See Lucero v. Gunter*, 52 F.3d 874, 878 (10th Cir. 1995). Accordingly, the Court will deny the instant Motion for Appointment of Counsel.

IT IS ORDERED that the Motion for Appointment of Counsel filed by Petitioner Alree Sweat [ECF 27] is **DENIED**.

SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE